

AMENDED IN SENATE JUNE 24, 2003

AMENDED IN ASSEMBLY APRIL 7, 2003

AMENDED IN ASSEMBLY FEBRUARY 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 117**

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**Introduced by Assembly Member Kehoe**

January 14, 2003

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An act to amend Sections 120508 and 120521, and to add Section 120509 to, the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 117, as amended, Kehoe. Transportation: transit boards.

Under the Mills-Deddeh Transit Development Act, the San Diego Metropolitan Transit Development Board is created with specified transportation powers, including the power to purchase or acquire real and personal property. Existing law provides that whenever the board acquires ownership of existing facilities from a privately or publicly owned corporation or public utility that has a pension plan in operation, it is required that the members and beneficiaries of the pension plan continue to have the rights, privileges, benefits, obligations, and status under that plan.

This bill would authorize the board to enroll the members and beneficiaries in, or transfer them to, the Public Employees' Retirement System or another retirement system under specified conditions. The bill would also authorize the board to abolish a nonprofit entity that operates public mass transit services and is solely owned by the board. The bill would provide that the provisions of certain collective

bargaining agreements that are intended to prohibit or limit the right of a nonprofit entity to contract out covered bargaining unit services to another common carrier of persons are not binding upon the board with respect to contracts for services entered into, renewed, or extended by the board prior to January 1, 2004. The bill would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 120508 of the Public Utilities Code is  
2 amended to read:  
3 120508. (a) This article also applies to the employee  
4 relations of employees of a nonprofit entity which operates public  
5 mass transit services and which is solely owned by the board. For  
6 employee relations regarding these employees, the term “board,”  
7 as used in this article, means the board and the board of directors  
8 of the nonprofit entity as the joint employer of the employees.  
9 (b) The board may, at any time in its sole discretion, abolish any  
10 nonprofit entity.  
11 (c) Upon abolishing a nonprofit entity pursuant to subdivision  
12 (b), the board shall become the sole employer of the employees of  
13 the nonprofit entity and shall assume sole responsibility to observe  
14 all existing labor contracts established and maintained pursuant to  
15 this article.  
16 (d) Except as may be agreed upon through the collective  
17 bargaining process, nothing in this section shall prohibit or limit  
18 the right of the board to contract with common carriers of persons  
19 operating under a franchise, license, or other agreement. Any  
20 provision in an existing collective bargaining agreement made  
21 applicable to the board in its capacity as a joint employer with a  
22 nonprofit entity pursuant to subdivision (a) or sole successor  
23 employer pursuant to subdivision (b) that is intended to prohibit  
24 or limit the right of a nonprofit entity to contract out covered  
25 bargaining unit services to another common carrier of persons  
26 shall not be binding upon the board with respect to any contract for  
27 services entered into, renewed, or extended by the board prior to  
28 January 1, 2004, and thereafter shall apply only to contracts for  
29 bargaining unit services covered by an existing collective



bargaining agreement assumed by the board unless otherwise agreed upon through the collective bargaining process.

SEC. 2. Section 120509 is added to the Public Utilities Code, to read:

120509. (a) Upon the request of the board, as defined in Section 120508, with the consent of any labor organization acting as the exclusive representative of employees whose collective bargaining rights are subject to Section 120508, the board may enter into a contract to enroll the collectively bargained employees as members of the Public Employees' Retirement System or another retirement system.

(b) A contract to enroll employees in the Public Employees' Retirement System shall be subject to the provisions of Part 3 (~~commencing with Section 31200~~) of Division 4 of Title 3 of the (*commencing with Section 20000*) of Division 5 of Title 2 of the Government Code.

(c) Employees transferred from any existing retirement system or pension plan to the Public Employees' Retirement System or any other retirement system by operation of this section shall receive benefits immediately after enrollment in, or transfer to, the system that are at least equal to, or greater than, the benefits the employees would have been entitled to immediately before enrollment in, or transfer to, the system.

SEC. 3. Section 120521 of the Public Utilities Code is amended to read:

120521. (a) Whenever the board acquires ownership of existing facilities from a privately or publicly owned corporation or public utility, either in proceedings in eminent domain or otherwise, and terminates the corporation or operates the facilities itself, that has a pension plan in operation, the members and beneficiaries of the pension plan shall continue to have the rights, privileges, benefits, obligations, and status with respect to the plan.

The board shall consider, and take into account, the outstanding obligations and liabilities of the corporation or of the publicly or privately owned public utility, as the case may be, by reason of the pension plan, and may negotiate an allowance in the purchase price of the corporation or the utility for the assumption of those obligations and liabilities when acquiring the corporation or the utility.

(b) Instead of maintaining an existing pension plan applicable to bargaining unit employees of an acquired facility, the board, with the consent of any exclusive collective bargaining representative of employees of an acquired facility whose rights are protected by Section 120520, may enroll the employees in, or transfer them to, the Public Employees' Retirement System or another retirement system.

(c) A contract to enroll employees in the Public Employees' Retirement System shall be subject to the provisions of Part 3 ~~(commencing with Section 31200) of Division 4 of Title 3 of the~~ *(commencing with Section 20000) of Division 5 of Title 2 of the* Government Code.

(d) Employees participating in an existing pension plan shall receive benefits immediately after enrollment in, or transfer to, the system that are at least equal to, or greater than, the benefits the employees would have been entitled to immediately before enrollment in, or transfer to, the system.

